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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/781,956	02/20/2004	William M. Koppes	84,660	4437

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Indian Head, MD 20640-5035

EXAMINER

BALASUBRAMANIAN, VENKATARAMAN

ART UNIT PAPER NUMBER

1624

DATE MAILED: 02/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/781,956

Applicant(s)

KOPPE ET AL.

Examiner

Venkataraman Balasubramanian

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,6-17,19 and 20 is/are rejected.
- 7) ☒ Claim(s) 2-5 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/20/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

Claims 1-20 are pending.

#### ***Information Disclosure Statement***

References cited in the Information Disclosure Statement filed on 2/20/2004, are made of record.

#### **Claim Rejections - 35 USC § 112**

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 7-12 and 15-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Following reasons apply. Any claim not specifically rejected is rejected as being dependent on a rejected claim and share the same indefiniteness of the rejected claim.1.

1. Claim 7 is indefinite for more than one reason. Recitation of "-O<sup>-</sup>, -COO<sup>-</sup>" in claim 7 renders claim 7 and its dependent claims 8-12 indefinite as it is not clear whether the claim is what is appended to the divalent oxygen. An appropriate correction is needed.

As formulated claim 7 lacks consistency. Note all groups except SR show a bond before the groups but SR does not.

The label R<sub>A</sub><sup>-</sup>C is confusing. Its replacement with R<sub>A</sub>, R<sub>B</sub>, and R<sub>C</sub> is suggested.

Note the same issue in claim12.

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2. Recitation of the term "includes" in claim 8-11" renders these claims indefinite as it is not clear what is intended. Its replacement with "is" is suggested.
3. Recitation of "agriculturally effective substituent" in claim 15-17 renders these claims indefinite for more than one reason. First of all, it is not clear what an agriculturally effective substituent is.  
  
Secondly Rx is clearly defined in claim 1 and so is an agriculturally effective substituents a subset of the said Rx or not is unclear. If they are not, then these 15-17 lack antecedent basis and would also raise an issue as to reciting of the terms "agricultural composition" in claim 1 and its dependent claims. If Rx recited in claim 1 is not agriculturally acceptable how such a composition be agriculturally acceptable ?
4. Claim 19 and 20 are indefinite as it is not clear whether it is agricultural product claim or a method of use claims.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 6-17 and 19-20 are rejected 35 U.S.C 102(b) as being anticipated by DeMilo et al. J. Heterocyclic. Chem. 10: 231-233, 1973..

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DeMilo et al., teaches several synthetic triazolo-triazine which include instant compounds. See entire document especially Scheme 1 shown in page 231 for triazolo-triazine compounds with substituents claimed as in the instant claims.

### ***Allowable Subject Matter***

Claims 2-5 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable, barring any prior art finding in a subsequent search, if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Said claims 2-5 and 18 would be allowed since the agricultural embraced in these claims are not taught or suggested by the art of record or from a search in the relevant art area.

### **Conclusion**

Any inquiry concerning this communication from the examiner should be addressed to Venkataraman Balasubramanian (Bala) whose telephone number is (571) 272-0662.

The examiner can normally be reached on Monday through Thursday from 8.00 AM to 6.00 PM. The Supervisory Patent Examiner (SPE) of the art unit 1624 is Mukund Shah whose telephone number is (571) 272-0674.

If Applicants are unable to reach Mukund Shah within 24-hour period, they may contact James O. Wilson, Acting-SPE of art unit 1624 at 571-272-0661.

The fax phone number for the organization where this application or proceeding is assigned (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.

*Venkataraman Balasubramanian*  
Venkataraman Balasubramanian

2/22/2005